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REMARKS

Claims 1 – 7, 18 – 23, 26, 27 and 30 – 49 were pending in the application. By this paper, Applicant has not amended, canceled or added any new Claims. Hence, Claims 1 – 7, 18 – 23, 26, 27 and 30 – 49 are presented for examination herein.

§103 Rejections

1. Per page 2 of the Office Action, Claims 1, 18, 20, 31, 38, 40, 43 and 49 each stand rejected under 35 U.S.C. §103 as being unpatentable over Hauck et al. (U.S. Patent No. 6,356,558, hereinafter “Hauck”) in view of Duckwall (U.S. Patent No. 5,495,481, hereinafter “Duckwall”). In response thereto, Applicant provides the following remarks:

Claim 1 – With regards to Claim 1, Applicant respectfully traverses the Examiner’s contention that Claim 1 is unpatentable over Hauck in view of Duckwall. Specifically, Applicant submits that Hauck does not teach or suggest, *inter alia*, “*if there is no packet of the second type to be sent, then concatenating a bogus ack packet to the plurality of packets of the first type*”. The Examiner appears to allege that the packets of the first type comprise ackless subactions such as: broadcast, self-ID, link on, asynchronous stream, and PHY pin subactions. See pages 2 – 3 of the Office Action and Col. 2, lines 1 – 20 of Hauck. The Examiner further alleges that “*a bogus ack packet*” is taught by Hauck as an end of subaction (EOS) token. See e.g. page 3 of the Office Action and Col. 4, lines 15 – 35 of Hauck.

Applicant respectfully disagrees with the Examiner’s interpretation of Hauck, and the analysis with respect to Applicant’s language of Claim 1. The Examiner appears to be mixing and matching different elements and method steps of Hauck that are *not* disclosed by Hauck as being related to one another. For example, the insertion of the EOS token as alleged by the Examiner to be taught by Hauck, bears no relation to the determination made that there is no packet of the second type (i.e., an asynchronous packet as interpreted by the Examiner) to be sent. Rather, the insertion of the EOS token only takes place when it is determined that the packet is the last packet of a subaction. **See e.g. Col. 4, lines 25 – 28 of Hauck.**

In addition, Applicant disagrees with the Examiner’s seeming interpretation that “*an EOS token*” is equivalent to “*a bogus ack*” packet. An EOS token is merely an indication of the end

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of a subaction (see e.g., the Abstract of Hauck), and in no way is intended as an acknowledgement of anything, whether as a regular ack or a bogus ack. The only potential parallel between an EOS token and a bogus ack packet that Applicant can see is the fact that the EOS is inserted as the last token of a packet at the end of a subaction, while the invention of Claim 1 concatenates a bogus ack following the plurality of packets of the first type. In Applicant's opinion, while Hauck does teach concatenation; Applicant can see no reason why the two elements (i.e., the EOS token and the bogus ack packet) would otherwise be deemed by the Examiner to equate to one another. Applicant respectfully notes that the pending claims must be given "*their broadest reasonable interpretation consistent with the specification*". See e.g. MPEP § 2111. Applicant respectfully submits that the apparent interpretation made by the Examiner is inconsistent with Applicant's specification and accordingly is believed to be improper.

Based on the foregoing, Applicant respectfully submits that Claim 1 distinguishes over the teachings of the prior art, including Hauck and Duckwall, and is therefore in condition for allowance.

Claim 18 – With regards to Claim 18, Applicant respectfully traverses the Examiner's contention that Hauck teaches or suggests "*if fly-by concatenation is not permitted ... sending a bogus ack packet.*" The Examiner appears to allege that this is taught by Hauck at Col. 4, lines 40 – 55 which states in relevant part:

"If concatenation is not permitted, the packet is repeated to all non-receiving ports at functional block 172. After repeating the packet to all non-receiving ports, accelerated arbitration commences at functional block 171." {emphasis added}

It appears the Examiner is interpreting that "*an EOS token*" is equivalent to "*a bogus ack*" packet. However, an EOS token is merely an indication of the end of a subaction and in no way is intended as an acknowledgement, whether as a regular ack or a bogus ack. For example, the cited language from Hauck above indicates that the packet is "*repeated*" and not sent as an acknowledgement to a received asynchronous packet. See also paragraph [0030] of Applicant's specification as filed for further background information on the concept behind a bogus ack packet.

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Accordingly, Applicant can see no reason why the two elements (i.e. the EOS token and the bogus ack packet) can otherwise be deemed by the Examiner to equate to one another, and notes that the Examiner appears to be interpreting the term in a manner inconsistent with Applicant's specification as filed. **See e.g. MPEP § 2111.**

5 Applicant respectfully submits that Claim 18, as previously presented, distinguishes over the teachings of the prior art, including Hauck and Duckwall.

Claims 31 and 43 – With regards to Claims 31 and 43, Applicant respectfully traverses the Examiner's contention that Claims 31 and 43 are unpatentable over Hauck in view of
10 Duckwall. Specifically, Applicant submits that Hauck does not teach or suggest, *inter alia*, “if no packet of the second type needs to be sent, concatenating a false acknowledgement packet to the plurality of packets of the first type”. The Examiner appears to allege that the packets of the first type comprise ackless subactions such as: broadcast, self-ID, link on, asynchronous stream, and PHY pin subactions. See pages 6 – 7 of the Office Action and Col. 2, lines 1 – 20 of Hauck. The
15 Examiner further alleges that “a false acknowledgement packet” as taught by Hauck comprises an end of subaction (EOS) token. See e.g. page 7 of the Office Action and Col. 4, lines 15 – 35 of Hauck.

Applicant respectfully disagrees with the Examiner's interpretation of Hauck, and the analysis with respect to Applicant's language of Claims 31 and 43. The Examiner appears to be
20 mixing and matching different elements and method steps of Hauck that are not disclosed by Hauck as being related to one another. For example, the insertion of the EOS token as alleged by the Examiner to be taught by Hauck, in Applicant's opinion, bears no relation to the determination made that there is no packet of the second type (i.e., an asynchronous packet as interpreted by the Examiner) to be sent. Rather, the insertion of the EOS token only takes place
25 when it is determined that the packet is the last packet of a subaction. **See e.g. Col. 4, lines 25 – 28 of Hauck.**

In addition, Applicant disagrees with the Examiner's apparent interpretation that “an EOS token” is equivalent to “a false acknowledgement” packet. An EOS token is merely an indication of the end of a subaction and in no way is intended as an acknowledgement, whether
30 as a regular or a false acknowledgement. The only potential parallel between an EOS token and a false acknowledgement packet that Applicant can see is the fact that the EOS is inserted as the

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last token of a packet at the end of a subaction, while Applicant concatenates a false acknowledgment packet following the plurality of packets of the first type. Applicant submits that the Examiner appears to be interpreting the term in a manner inconsistent with Applicant's specification as filed. See e.g. MPEP § 2111.

5 Based on the foregoing, Applicant respectfully submits that Claims 31 and 43 distinguish over the teachings of the prior art, including Hauck and Duckwall, and are therefore in condition for allowance.

10 **Claims 38 and 49** – With regards to Claims 38 and 49, Applicant respectfully traverses the Examiner's contention that Hauck teaches or suggests "*if concatenation is not permitted ... sending a false response packet.*" The Examiner appears to allege that this is taught by Hauck at Col. 4, lines 40 – 55 which states in relevant part:

15 "*If concatenation is not permitted, the packet is repeated to all non-receiving ports at functional block 172. After repeating the packet to all non-receiving ports, accelerated arbitration commences at functional block 171.*" {emphasis added}

Again, the Examiner appears to allege that "*an EOS token*" is equivalent to "*a false response*" packet. However, an EOS token is merely an indication of the end of a subaction (See e.g. the **Abstract of Hauck**) and in no way is intended as a response, whether as a regular or a false response. For example, the cited language from Hauck above indicates that the packet is "*repeated*" and not sent as a response to a received asynchronous packet. See also paragraph [0030] of Applicant's specification as filed for further background information. Accordingly, Applicant respectfully submits that the Examiner appears to be improperly interpreting Applicant's claims in a manner inconsistent with Applicant's specification. See e.g. MPEP § 2111.

Applicant respectfully submits that Claims 38 and 49, as previously presented, distinguish over the teachings of the prior art, including Hauck and Duckwall.

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2. Per page 10 of the Office Action, Claims 23, 26, 27 and 30 each stand rejected under 35 U.S.C. § 103 as being unpatentable over Hauck, Duckwall and Henry et al. (U.S. Patent

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Publication No. 2004/0151153, hereinafter “Henry”). In response thereto, Applicant provides the following remarks:

Claims 23 and 27 – With regards to Claims 23 and 27, Applicant respectfully traverses
5 the Examiner’s contention that Claims 23 and 27 are unpatentable over Hauck in view of
Duckwall. Specifically, Applicant submits that Hauck does not teach or suggest, *inter alia*, “if
there is no packet of the second type to be sent, then concatenating a bogus ack packet to the
plurality of packets of the first type”. The Examiner appears to allege that the packets of the first
10 PHY pin subactions. See pages 11 – 12 of the Office Action and Col. 2, lines 1 – 20 of Hauck.
The Examiner further alleges that “*a bogus ack packet*” is taught by Hauck as an end of
subaction (EOS) token. See e.g. page 11 of the Office Action and Col. 4, lines 15 – 35 of Hauck.

Applicant respectfully disagrees with the Examiner’s interpretation of Hauck, and the
analysis with respect to Applicant’s language of Claims 23 and 27. The Examiner appears to be
15 mixing and matching different elements and method steps of Hauck that are not disclosed by
Hauck as being related to one another. For example, the insertion of the EOS token as alleged by
the Examiner to be taught by Hauck, bears no relation to the determination made that there is no
packet of the second type (i.e., an asynchronous packet as interpreted by the Examiner) to be
sent. Rather, the insertion of the EOS token only takes place when it is determined that the
20 packet is the last packet of a subaction. **See e.g. Col. 4, lines 25 – 28 of Hauck.**

In addition, Applicant disagrees with the Examiner’s apparent interpretation that “*an*
EOS token” is equivalent to “*a bogus ack*” packet. An EOS token is merely an indication of the
end of a subaction and in no way is intended as an acknowledgement, whether as a regular ack or
a bogus ack. The only potential parallel between an EOS token and a bogus ack packet that
25 Applicant can see is the fact that the EOS is inserted as the last token of a packet at the end of a
subaction, while Applicant concatenates a bogus ack following the plurality of packets of the
first type. Accordingly, Applicant respectfully submits that the Examiner is improperly
interpreting Applicant’s claims by interpreting language in a manner inconsistent with
Applicant’s specification as filed. **See e.g. MPEP § 2111.**

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Based on the foregoing, Applicant respectfully submits that Claims 23 and 27 distinguish over the teachings of the prior art, including Hauck and Duckwall, and are therefore in condition for allowance.

5 **Claims 26 and 30** – With regards to Claims 26 and 30, Applicant respectfully traverses the Examiner’s contention that Hauck teaches or suggests “*if fly-by concatenation is not permitted ... sending a bogus ack packet.*” The Examiner appears to allege that this is taught by Hauck at Col. 4, lines 40 – 55 which states in relevant part:

10 *“If concatenation is not permitted, the packet is repeated to all non-receiving ports at functional block 172. After repeating the packet to all non-receiving ports, accelerated arbitration commences at functional block 171.”* {emphasis added}

15 Applicant submits that “*an EOS token*” is not equivalent to “*a bogus ack*” packet as apparently is being alleged by the Examiner. An EOS token is merely an indication of the end of a subaction and in no way is intended as an acknowledgement, whether as a regular ack or a bogus ack. For example, the cited language from Hauck above indicates that the packet is “*repeated*” and not sent as an acknowledgement to a received asynchronous packet. See also paragraph [0030] of
20 Applicant’s specification as filed for further background information on the concept behind a bogus ack packet.

Applicant respectfully submits that Claims 26 and 30, as previously presented, distinguish over the teachings of the prior art, including Hauck and Duckwall.

25 *Other Remarks*

Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Brief Pilot Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.

30 Applicant notes that any claim cancellations or additions made herein (if any) are made solely for the purposes of more clearly and particularly describing and claiming the invention and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant’s position with

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respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.

Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims. If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

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